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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) No.850/2017
MOHINDER PAL SINGH Petitioner
Through: Mr. Dhananjay Kr. Singh, Adv.
versus
SATNAM SINGH & ORS Respondents
Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **08.08.2017**

CM No.28267/2017 (exemption from filing complete Trial Court record).

1. Allowed, subject to just exceptions.
2. The application stands disposed of.

CM(M) No.850/2017 & CM No.28266/2017 (for stay).

3. This petition under Article 227 of the Constitution of India impugns the order (dated 1st May, 2017 in CSDJ-11106/16 of the Court of Additional District Judge-14 (Central), Tis Hazari Courts, Delhi) of dismissal of the application under Section 114 of the Code of Civil Procedure, 1908 (CPC) filed by the petitioner seeking review of the order dated 14th November, 2011 of dismissal of the application filed by the petitioner under Order I Rule 10 of the CPC for impleadment as a party in the suit filed by the respondent no.1 / plaintiff against (i) Sant Singh; (ii) Dharambir Singh; (iii) Madan Pal Singh; (iv) Janta Hydraulic Works; (v) Fixwell Electricals and Electronics (Private) Limited; and, (vi) Metal Febs for dissolution of a partnership firm in case the same is not dissolved and for rendition of accounts and for payment to the respondent no.1 / plaintiff his 1/4th share in

the firm's assets.

4. The petitioner has not impugned order dated 14th November, 2011 of dismissal of his application under Order I Rule 10 of the CPC and which order has attained finality.

5. No remedy in law lies against an order of dismissal of a review application.

6. This petition is thus misconceived.

7. On a reading of the impugned order it appears that though the petitioner was wanting impleadment in the suit "in his independent right" but has already been impleaded on substitution in place of his father Sant Singh, defendant no.1 in the suit.

8. However the counsel for the petitioner draws attention to the order dated 4th August, 2011 in the suit, of dismissal of the application for substitution of the legal representative of the defendant no.1 Sant Singh and resultant abatement of the suit insofar as against the defendant no.1 Sant Singh. The counsel for the petitioner on enquiry states that the order dated 4th August, 2011 has attained finality and has not been challenged further.

9. I have enquired from the counsel for the petitioner that the suit against the father of the petitioner having stood abated and the petitioner, if has any independent right in the assets of the partnership firm, having not been impleaded in the suit, what is the need for the petitioner to be impleaded, inasmuch as the petitioner would not be bound by the decree if any passed in the suit.

10. No answer is forthcoming, except for saying "that the petitioner in his independent capacity will be affected".

11. Once the respondent no.1 / plaintiff, being the *dominus litis* in the suit, has not claimed any relief in the suit against the petitioner, for this reason also I am of the view that the entire action of the petitioner for being impleaded is misconceived.

12. The counsel for the petitioner has stated that the respondent no.1 / plaintiff has since also added in the suit the relief of declaration of the Dissolution Deed dated 1st April, 1972 as null and void.

13. The position as aforesaid would remain unchanged.

14. The petition is thus misconceived and is dismissed.

No costs.

RAJIV SAHAI ENDLAW, J

AUGUST 08, 2017
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